



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	HB0255	Title:	Referendum regarding disqualification of judges receiving certain contributions
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Primary Sponsor:	Monforton, Matthew	Status:	As Introduced
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|--|---|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
Expenditures:				
General Fund		----- Unknown -----		
Revenue:				
General Fund		----- Unknown -----		
Net Impact-General Fund Balance:		----- Unknown -----		

Description of fiscal impact: HB 255 will submit a referendum to the electorate that would require disqualification of judges based on campaign contributions to a judge from a party to the proceeding in the most recent election or in anticipation of an upcoming election. The fiscal impact, if the referendum were to be passed by the electorate, cannot be quantified.

FISCAL ANALYSIS

Assumptions:

Judicial Branch

1. HB 255, if passed by the voters, would be effective for all judicial elections following the 2016 general election.
2. Supreme Court Justices are state officials elected to eight-year terms. District Court Judges are state officials elected to six-year terms. Justices of the Peace are local officials elected to four-year terms. City and Municipal Court judges can also be elected to four-year terms although some are appointed.

3. HB 255 requires automatic recusal when an attorney or party to a case has donated \$35 or more to the judges' or justices' campaign. Section 1 (b) limits the recusal to the period following the most recent election or a future election. A waiver can be granted by the other party in any case.
4. Currently, when a judge is substituted or recused, the individual judge is responsible for finding another judge to assume the case. In the Supreme Court, in cases with all seven justices participating, a District Court Judge will sit in place of the justice. In the District Court, judges from other districts travel to assume the case. In those districts with multiple judges, another judge from the district can be assigned unless he/she has a conflict in which case an outside judge travels to assume the case.
5. In courts of limited jurisdiction, the judge may call in a substitute judge or a neighboring judge. The costs are assumed by the local government and could result in additional costs for cities and counties.
6. It is assumed that the number of judge and justice substitutions would increase significantly prior to and following the 2018 general election but it is not possible to estimate the number.
7. The District Court case management system (Full Court) would be customized to track the automatic recusal by attorney and judge, in addition to tracking any waivers. Presumably, the single judge districts would receive notice and the multiple judge districts would move to the next judge in the automatic case assignment process. Based on previous complex modifications to the system, the estimated cost of these modifications is \$26,400.
8. The Courts of Limited Jurisdiction's case management system would require additional customization. It is unknown how this would be done but could possibly be covered under the same modification as the District Court. A cost cannot be estimated.
9. The Supreme Court conducts all business in panels of five or seven justices. Panels are assigned by the case management system. The Supreme Court's case management system (C-Track) would need customization to track the automatic recusal by justice(s) and automatically reset the panel. Customization currently is \$195 per hour. Based on previous complex modifications to the system, the estimated cost of these modifications is \$23,400.
10. The state Judicial Branch pays the cost of judges' travel. Montana has 22 judicial districts; twelve of which are single judge districts. The Judicial Branch is budgeted for current travel expenses resulting from current judicial substitution and recusal. It is assumed that the number of recusals will increase significantly but it is not possible to estimate the number. Increases will result in additional travel expenses, which cannot be estimated.
11. An increase in Supreme Court recusals will result in additional assignment of District Court judges to Supreme Court panels as well. Increases will result in additional travel expenses, which cannot be estimated.
12. When another judge is not available in the District Court, a retired judge can be called in to serve. The cost of retired judges is set in statute (currently \$452.54 per day). In FY 2014, the Judicial Branch spent \$62,541 on retired judges, which was covered by the existing budget. Presumably the need for retired judges would increase but it cannot be estimated.
13. Any significant change in the assignment of judges can influence the speed of case processing and may ultimately result in a request for additional judges if the existing judges are unable to meet statutory and constitutional deadlines in individual cases.

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Personal Services		----- Unknown -----		
TOTAL Expenditures	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)		----- Unknown -----		
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)		----- Unknown -----		

Effect on County or Other Local Revenues or Expenditures:

1. The cost of calling in substitute judges in limited courts would be the cost of local governments.
2. The 2014 election costs (ballots, printing, programming, and other associated costs) is used to estimate the proportionate cost of this referendum. The costs in 2014 were \$505,254 which is divided by the average number of contests per ballot (18) resulting in an average cost of \$28,069 per referendum.

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date